

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0371

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 55** - 02/04/2005

Introduced by: The Committee on Health and Human Services at the request of the
Department of Social Services

1 FOR AN ACT ENTITLED, An Act to provide for a preference for placement of abused and
2 neglected children with relatives and to provide a hearing for review of adoptive placement
3 decisions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 26-7A-19 be amended to read as follows:

6 26-7A-19. If the child is an apparent, alleged, or adjudicated abused or neglected child, after
7 the temporary custody hearing the court may:

8 (1) Order the release of the child from temporary custody, either with or without
9 restriction or condition or upon written promise of the child's parents, guardian, or
10 custodian regarding the care and protection of the child; or

11 (2) Continue the temporary custody of the child under the terms and conditions for
12 duration and placement that the court requires, including placement of temporary
13 custody of the child with the Department of Social Services, in foster care or shelter.

14 The court and the Department of Social Services shall give placement preference to
15 a relative or custodian who is available and who has been determined by the



1 department to be qualified, provided that placement with the relative or custodian is
2 in the best interest of the child. If temporary custody of the child is continued by the
3 court, the court may provide for visitation of the child by the child's parents,
4 guardian, custodian, or family members in keeping with the best interests of the
5 child;~~and~~

6 ~~—(3)—~~ If the child is in temporary custody of the Department of Social Services and has not
7 been adjudicated as an abused or neglected child, the court shall review the child's
8 temporary custody placement at least once every sixty days.

9 As used in this section, the term, relative, means an adult who is related to the child by
10 blood, adoption, or marriage, and who is the child's grandparent, aunt, uncle, sibling, brother-in-
11 law, sister-in-law, niece, nephew, great grandparent, great uncle, great aunt, first cousin, second
12 cousin, stepparent, or stepsibling.

13 As used in this section, the term, custodian, means an adult who is the biological parent,
14 adoptive parent, or guardian of the child's sibling or half-sibling.

15 Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Subsequent to a temporary custody hearing, if a placement is made of an apparent, alleged,
18 or adjudicated abused or neglected child, placement preference shall be given to a relative
19 entitled to placement under § 26-7A-19.

20 Section 3. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as
21 follows:

22 Except under circumstances where placement was with another relative of the child, any
23 relative who has been denied adoptive placement by the Department of Social Services may
24 request a hearing to determine if the placement was an abuse of discretion. The request shall be

1 filed with the circuit court having jurisdiction pursuant to § 26-8A-29 and shall be filed within
2 thirty days of written notification from the department by regular mail to the relative's last
3 known address. The hearing shall be held within thirty days of the filing of the request for
4 hearing and may be continued for not more than thirty days upon good cause shown. The
5 relative shall be granted limited intervention only for the purpose of the placement review
6 hearing.

7 No intervention may be allowed in a proceeding involving an apparent, alleged, or
8 adjudicated abused or neglected child, including an adoption or guardianship proceeding for a
9 child placed in the custody of the Department of Social Services pursuant to § 26-8A-27, except
10 as provided by this chapter and under the Indian Child Welfare Act, (25 U.S.C. 1901 to 1963,
11 inclusive), as amended to January 1, 2005.